

The Honorable Jim Doyle
Governor, State of Wisconsin
115 East State Capitol
Madison, WI 53702

December 1, 2004

Dear Governor Doyle,

"The state of Wisconsin has been on the leading edge of brownfields policy, program initiatives, and cleanups since the mid-1990's." This was the finding of a national study on brownfields released in October 2004 by the National Association of Local Government Environmental Professionals (NALGEP) and the Northeast-Midwest Institute ("Unlocking Brownfields: Keys to Community Revitalization"). It correctly highlighted the state of Wisconsin as having one of the six most effective brownfields programs in the nation. I believe we would all agree that this state has achieved an efficient and effective public-private initiative that works to create jobs, increase tax base, reduce health threats, protect and create green space and eliminate blight.

Wisconsin's brownfield program is recognized for success in both economic development and environmental protection. However, the Brownfields Study Group would like to share with you a very real concern that may undermine the economic engine of brownfield redevelopment. It is the Study Group's opinion that this state's well-balanced strategy of having sufficient public resources available - in the form of state staff and grants - to meet the demand of the brownfields market, is on the precipice of imbalance.

The assistance the private sector requires from state staff when attempting to redevelop a brownfield is not a commodity service and we are extremely concerned about the five-year decline of brownfields-related staff at the Department of Natural Resources (DNR). Adequate and capable staff is needed to assist developers, property owners, local governments and lenders with the site specific process of clean up and the time-critical process of redeveloping the estimated 10,000 brownfields properties. This imbalance hurts the efforts of the private and public sector to create jobs and increase the value of properties across this great state.

The Brownfields Study Group is now in its sixth year as a statewide advisory committee. We have been at the forefront of improving and enhancing Wisconsin's brownfields public policies. We represent a wide variety of people who deal with brownfields on a daily basis - mayors, planners, non-profit groups, attorneys, developers, consultants and others (please see Attachment 1 for a membership list). We have also been in the "trenches" on brownfields cleanups, turning real contaminated properties into community assets. We have all experienced programs that do and do not work well in the public sector. This initiative is one of the best that state government has to offer.

The state is facing a mind-numbing budget deficit, and given the scarcity of state resources, we felt compelled to explain why the investment in maintaining a sufficiently funded brownfields program is cost-effective and wise, and why, in turn, allowing the program to diminish has very real, long-term consequences. The wise return on the state's investment includes brownfield grants awarded to more than 100 communities, which have in turn created 4,000 *new, full-time* jobs, addressed nearly 1,000 acres of land, and increased community tax bases by nearly \$400 million. It has also brought into Wisconsin a record grant of \$4 million from EPA to create a brownfields revolving loan fund.

For the 2005-07 biennial budget, we support efforts to raise the vehicle impact fee or similar revenue-producing ideas to fund staff and grants at DNR and Commerce for brownfields. We strongly believe that the state should maintain – at a sufficient level – those state programs that have a proven ability to produce long-term investments in this state’s economy, particularly in the form of jobs, business expansion, and property valuation. We also support three statutory changes related to DNR’s site assessment grants and land recycling loans, as well as a revision to our state tax laws, as summarized in Attachment 2.

We believe that the recommendations contained in this letter keep the state’s important brownfields initiative in “balance” with the needs of investors, communities, developers and lenders. Based on information supplied by the departments of Administration (DOA) and Natural Resources at our September 30 meeting, it is our understanding that the increase of the vehicle impact fee from the current \$9 to \$10.50 would generate approximately \$3.6 million in new revenue over the biennium. The Brownfields Study Group would like to recommend that the revenue be distributed as \$2.1 million in revenue to state brownfields grants, and \$1.5 million in revenue for DNR brownfields-related staff.

We have included specific grant and staffing recommendations in Attachment 3, based on data provided by DOA and DNR budget staff. These staffing recommendations are based primarily on our concern that as of July 1, 2005, the RR program at the DNR will have experienced a 40 percent decline in state staff (since July 1, 2000). After painstaking assessment, we ask that the governor and Legislature partially restore and buffer some – not all – of the downsizing that has impacted this important economic development initiative. Given the challenges unique to brownfields, and the demand for consistency, predictability and clarity from state staff in managing brownfield issues, there becomes a point where a functional, highly innovative program can no longer produce the results that lead national experts to designate Wisconsin as one of the six most effective programs in the nation

We thank you in advance for your consideration of these important economic matters, and we look forward to working with you during the upcoming budget and legislative sessions. If you should have any questions of the group, please do not hesitate to contact us. It is our sincere hope that we can maintain the vital financial incentives currently available to clean up and restore brownfield properties for many years to come.

Sincerely,

Bruce Keyes
On Behalf of the Wisconsin Brownfield Study Group

Attachments

Cc: Marc Marrotta, Secretary, DOA
David Schmiedicke, Budget Director, DOA
Sean Dilweg, Executive Assistant, DOA
Scott Hassett, Secretary, DNR

Cory L. Nettles, Secretary, Commerce
Michael L. Morgan, Secretary, Revenue
Senator Carol Roessler, WI State Legislature
Brownfield Study Group Members

Attachment 1: 2004 BROWNFIELDS STUDY GROUP MEMBERSHIP

John Antaramian, Mayor
City of Kenosha
625 52nd St.
Kenosha, WI 53140
(262) 653-4000
ajeand@kenosha.org

Beverly Craig, Development
City of Milwaukee
809 N. Broadway
Milwaukee, WI 53202
(414) 286-5642
bcraig@mkedcd.org

Nancy Frank, Professor
School of Architecture and Urban Planning
UW - Milwaukee, Room 334
PO Box 413
Milwaukee, WI 53201
(414) 229-5372
frankn@csd.uwm.edu

Arthur Harrington, Attorney
Godfrey & Kahn
780 N. Water St.
Milwaukee, WI 53202
(414) 273-3500
ajharrin@gklaw.com

Steve Hiniker, Director
1,000 Friends Of Wisconsin
16 North Carroll Street, Suite 810
Madison, WI 53703
608-259-1000 ext. 105
hiniker@1kfriends.org

Bruce Keyes, Attorney
Foley & Lardner
777 E. Wisconsin Ave.
Milwaukee, WI 53202
(414) 297-5815
bkeyes@foleylaw.com

Larry Kirch, Planning Director
City of La Crosse
400 La Crosse St.
La Crosse, WI 54601
608-789-7512
kirchl@cityoflacrosse.org

Peter McAvoy, Director of Env. Health
Sixteenth St. Community Health Center
1032 S. Cesar E Chavez Dr.
Milwaukee, WI 53204
(414) 672-1315 ext. 154
McAvoy@sschc.org

Thomas Mueller, Consultant
TEMCO
PO Box 856
Cedarburg, WI 53012
(262) 675-6000
temco@execpc.com

Peter Peshek, Attorney
DeWitt, Ross and Stevens
2 E. Mifflin St.
Suite 600
Madison, WI 53707
(608) 255-8891
pap@dewittross.com

Jeff Schoepke, Env. Policy Director
WI Manufacturers and Commerce
501 E. Washington Ave.
PO Box 352
Madison, WI 53701
(608) 258-3400
jschoepke@wmc.org

John Stibal, Development Director
City of West Allis
7525 W. Greenfield Ave.
West Allis, WI 53214
(414) 302-8462
jstibal@ci.west-allis.wi.us

Joy Stieglitz, Planner
Vandewalle & Associates
120 E. Lakeside St.
Madison, WI 53715
(608) 255-3988
jstieglitz@vandewalle.com

Mark Thimke, Attorney
Foley & Lardner
777 East Wisconsin Ave.
Milwaukee, WI 53202
(414) 297-5832
mthimke@foleylaw.com

Sam Tobias, Director of Parks
Fond du Lac County
160 S. Macy St.
Fond du Lac, WI 54935
(920) 929-3135
sam.tobias@co.fond-du-lac.wi.us

Scott Wilson, Consultant
Ayres Associates
1802 Pankratz St.
Madison, WI 53704
(608) 443-1258
wilsons@ayresassociates.com

Attachment 2: Statutory Recommendations

1. **Site Assessment Grant:** for the DNR's Brownfields Site Assessment Grant (SAG) Program, change the type of appropriations from a biennial appropriation to be a continuing appropriation. This would allow the DNR to re-encumber those funds for another SAG applicant, if the money was returned to the DNR outside the biennial budget in which it was appropriated to the DNR.
2. **Land Recycling Loan Program:** for the DNR's Land Recycling Loan Program (LRLP), the Study Group supports the replenishing of the bonding authority for this program, *if* the DNR and DOA staff commit to working with the Study Group to streamline this lengthy and often complicated financial program. At a minimum, DOA and DNR need to eliminate the Intent-To-Apply (ITA) provision and the December 31 deadline associated with it; and also allow direct financing for Phase 1 and 2 site Environmental Assessments and site investigations, if a cleanup is needed. The Study Group would like DNR and DOA Secretary's' commitments that staff will work with the Study Group to find rule-related and program-related improvements that can be made to significantly increase the usability of this program. If this cannot be accommodated, the Study Group respectfully requests that this program be eliminated after the initial \$20 million in funds are finally obligated.
3. **Federal Tax Deduction:** Adopt into our state tax code the federal brownfields tax deduction. Originally signed into law in August 1997, the Taxpayer Relief Act ([Public Law 105-34](#)) included a tax incentive to spur the cleanup and redevelopment of brownfields in distressed urban and rural areas. Under the Brownfields Tax Incentive, environmental cleanup costs are fully deductible in the year they are incurred, rather than having to be capitalized. According to EPA's brownfields web site, the government estimates that while the tax incentive costs approximately \$300 million in annual tax revenue, the tax incentive is expected to leverage \$3.4 billion in private investment and return 8,000 brownfields to productive use. This ability to spur investment in blighted properties and revitalize communities makes the tax incentive a valuable tool for restoring brownfields. In October 2004, the Working Families Tax Relief Act of 2004 extended the incentive, which expired on December 31, 2003, through December 31, 2005. Wisconsin DNR leads the nation in the number of approvals issued for this federal deduction.

Attachment 3:
Recommendations on Distributing \$3.6 M in Vehicle Impact Revenues

The Brownfields Study Group proposes that the additional revenues collected by raising the vehicle impact fee from the current \$9 to 10.50 – a total of approximately \$3.6 million in new revenue over the biennium – be distributed as follows:

- \$2.1 million in revenue to state grants, and
- \$1.5 million in revenue for DNR brownfields-related staff.

State brownfield grants would be increased as recommended in the table below.

Table: Grant Recommendations for 2005-07 State Biennial Budget

| State Fund | 2003-2005 Funding Levels | Brownfield Study Group Proposal for 2005-2007 Biennial Budget |
|---|-------------------------------------|--|
| Commerce Brownfield Grants | \$14 million | \$14.7 million |
| DNR Green Space and Public Facilities Grants | \$1 million | \$1.7 million |
| DNR Site Assessment Grants | \$3.4 million | \$4.1 million |
| DNR Land Recycling Loan Program | \$20 million | Replenish to \$20M, and streamline program |

In addition, based on data provided by DOA and DNR budget staff at the request of the Study Group, we would like to recommend that revenue from the increased revenue from the vehicle impact fee be used to correct the staff imbalance in the following manner:

- provide the RR program with additional revenue to fund 10, state-segregated account (SEG) positions (\$750,000 per year);
- in turn, eliminate 3 program revenue (PR) positions, due to inadequate fee-related funding;
- extend 12 federal project positions (for federal brownfields) an additional 4 years; and
- provide a buffer to that this program takes no more reductions in staff or revenue in FY 06 and 07.

We believe that this would assist in stabilizing the DNR's RR program, and thus providing much-needed technical, policy and grant administration support for this state's brownfields initiative.